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Dmitri Vallerveich TATARINOV,

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Petitioner,

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vs.

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Superior Court of the State of California,  
14 County of San Diego; Office of the Chief  
Counsel, Dept. of Homeland Security; U.S.  
15 Attorney, Southern District; ICE Detention &  
Removal Unit

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Respondents.

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) Civil No. 07cv2033 L (NLS)  
) USICE No. A72 779 308  
) **PETITIONER'S NOTICE OF MOTION  
AND MOTION FOR STAY OF  
REMOVAL DURING PENDENCY OF  
APPLICATION FOR WRIT OF HABEAS  
CORPUS**  
TIME: 10:30  
DATE: February 19, 2008  
PLACE: COURTROOM 14

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### MOTION FOR STAY OF REMOVAL

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Petitioner, through counsel, hereby requests a Stay of Removal pending the Court's determination on his Application for Writ of Habeas Corpus. The Application for Writ of Habeas Corpus was filed on October 19, 2007, and this Court issued an Order to Show Cause on October 29, 2007. On November 9, 2007 an Order Granting Respondent's Motion for enlargement of time to file was granted through December 31, 2007. On November 16, 2007 Petitioner filed a First Amended Petition to add additional Respondents.

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1. Petitioner is in custody under the authority of the Office of the Chief Counsel Department of Homeland Security in the Immigration and Customs Enforcement (ICE) Detention and Removal

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1                   Center located in San Diego, CA.

2                   2. ICE is currently attempting to obtain travel documents for the deportation of Petitioner to  
3                   Russia. Petitioner has been in ICE custody since June 28, 2007.

4                   3. It is submitted that given the fact upon which this application for writ is based – a denial of  
5                   Petitioner's right to counsel under the U.S. Constitution and the fact the denial of that right led to the  
6                   convictions upon which Mr. Tatarinov's removal order is based, present serious legal issues that have  
7                   not been addressed.

8                   4. Without a stay, Mr. Tatarinov could be removed from the United States without ever having  
9                   his constitutional claims heard.

10                  Based on the foregoing it is respectfully requested that this Court issue an order staying  
11                  the removal of the Petitioner in this matter pending a decision on the applications for writ of habeas  
12                  corpus.

13                  Respectfully submitted,

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15                  Dated: November 20, 2007

16                  s/Patricia Lynn Jacks  
17                  PATRICIA LYNN JACKS  
18                  Attorney for the Petitioner

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## DECLARATION OF SERVICE

## Respondents.

I, the undersigned declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served the above-named person the following documents:

**10 PETITIONER'S NOTICE OF MOTION AND MOTION FOR STAY OF REMOVAL DURING  
PENDENCY OF APPLICATION FOR WRIT OF HABEAS CORPUS**

## 12 Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case:

- **Attorney General**  
docketingsdawt@doj.ca.gov
  - **U S Attorney CV**  
Efile.dkt.civ@usdoj.gov
  - **Kevin R Vienna**  
Kevin.Vienna@doj.ca.gov,DocketingSDAWT@doj.ca.gov,Susan.Volsky@doj.ca.gov,ECFCoordinat or@doj.ca.gov,Bonnie.Peak@doj.ca.gov

19 Manual Notice List

20 The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who  
21 therefore require manual noticing). You may wish to use your mouse to select and copy this list into your  
word processing program in order to create notices or labels for these recipients.

- (No manual recipients)

Executed on November 20, 2007, at San Diego, California.

s/Patricia Lynn Jacks  
PATRICIA LYNN JACKS  
Attorney at Law